

## REMARKS

Claim 21 is pending and under examination. Claim 21 has been amended. Support for the amendment can be found throughout the specification and the claims as filed. In particular, support for the amendment to claim 21 can be found, for example, on page 2, lines 6-13, which teaches providing an agent such as an anti-TGF- $\beta$  antibody to suppress the activity of TGF- $\beta$ . Accordingly, this amendment does not raise an issue of new matter and entry thereof is respectfully requested.

Applicants appreciate Examiner Gambel's time and helpful discussion with Applicants' representative in the telephone interview conducted July 5, 2006. Applicants believe that the amendment addresses the issues discussed with Examiner Gambel.

During the telephone interview, Examiner Gambel noted the amino acid sequence recited on page 25, line 1, of the specification and requested that the file be reviewed as to whether a Sequence Listing was required to be filed or had been filed. As discussed with Examiner Gambel and confirmed in MPEP §2401, the final rule for the requirements for patent applications containing nucleotide and/or amino acid sequence disclosures went into effect October 1, 1990. The present application is a continuation of application serial no. 08/196,892, filed February 14, 1994, which is a continuation of U.S. Serial No. 07/416,656 filed October 3, 1989, which is a continuation-in-part of U.S. Serial No. 07/415,081 filed September 29, 1989. Since the complete content of the present continuation application was filed at least as of October 3, 1989, it is respectfully submitted that this application was filed prior to the effective date of October 1, 1990, for the requirement of providing a Sequence Listing, and it is therefore respectfully submitted that a Sequence Listing is not required to be filed.

The provisional rejection of claim 21 under the judicially created doctrine of obviousness-type double patenting over claims 1, 2, 5-7, 10 and 13-15 of copending application serial No. 10/638,172 is respectfully traversed. Copending application serial No. 10/638,172 has not been placed into condition for allowance and currently has an outstanding final Office Action to which a response has not been filed but a Notice of Appeal has been filed. According to MPEP §804(I)(B), a provisional double patenting rejection should be withdrawn if it is the only remaining rejection and the application permitted to issue as a patent. Upon withdrawal of the

double patenting rejection over U.S. Patent No. 5,824,655, as discussed below in more detail, the provisional double patenting rejection will be the only remaining rejection of claim 21 in the present application. Since copending application serial No. 10/638,172 has not been placed into condition for allowance, Applicants respectfully request that the provisional double patenting rejection be withdrawn.

The rejection of claim 21 under the judicially created doctrine of obviousness-type double patenting over claims 1-7 of U.S. Patent No. 5,824,655 is respectfully traversed. Although Applicants maintain that claim 21 is unobvious over claims 1-7 of the '655 patent, claim 21 has nevertheless been amended to recite the step of "providing an anti-TGF- $\beta$  antibody that binds to TGF- $\beta$ ." This amendment was discussed with Examiner Gambel in the telephone interview of July 5, 2006, and distinguishes from claims 1-7 of the '655 patent. Accordingly, Applicants respectfully request that this double patenting rejection be withdrawn.

In light of the amendment and remarks herein, Applicants submit that the claims are now in condition for allowance and respectfully request a notice to this effect. The Examiner is invited to call the undersigned agent if there are any questions.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account.

Respectfully submitted,

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